

1 UNITED STATES DISTRICT COURT
2 DISTRICT OF NEVADA
3

4 Maurice Jiles,
5 Plaintiff

6 v.

7 Warden Williams, et al.,
8 Defendants

Case No.: 2:17-cv-01820-JAD-PAL

Screening Order
[ECF Nos. 1, 1-1]

9 Pro se plaintiff and parolee Maurice Jiles brings this civil-rights case under § 1983 for
10 events that allegedly occurred during his incarceration at the Southern Desert Correctional
11 Center (SDCC).¹ Because he applies to proceed *in forma pauperis*,² I screen his civil-rights
12 complaint under 28 U.S.C. § 1915. I find on screening that Jiles's claim fails as a matter of law.
13 So, I dismiss the complaint with prejudice and close this case.

14 **Discussion**

15 **A. Jiles's pauper application is denied**

16 According to the Nevada Department of Corrections (NDOC) inmate database, Jiles is no
17 longer incarcerated. Jiles filed an application to proceed *in forma pauperis* for prisoners, but that
18 application is now moot. I therefore deny the pauper application and, as I discuss in Section C,
19 *infra*, Jiles's claim fails as a matter of law, so my denial is with prejudice.

20 **B. Screening standard**

21 The district court must dismiss an action if it determines that the action is frivolous or
22 malicious, fails to state a claim upon which relief may be granted, or seeks monetary relief
23 against a defendant who has immunity from monetary liability.³ This screening standard applies
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26 ¹ ECF No. 1-1.

27 ² ECF No. 1.

28 ³ 28 U.S.C. § 1915(e)(2)(B)(i)–(iii).

1 to all actions filed *in forma pauperis*, whether the plaintiff is incarcerated or not.⁴ Dismissal of a
2 complaint for failure to state a claim upon which relief may be granted is provided for in Rule
3 12(b)(6) of the Federal Rules of Civil Procedure, and 28 U.S.C. § 1915(e)(2)(B)(ii) tracks that
4 language. So I apply the same Rule 12(b)(6) dismissal standard when screening a civil-rights
5 complaint filed by a pauper plaintiff.⁵

6 Review under 12(b)(6) is essentially a ruling on a question of law.⁶ I must accept as true
7 all well-pled factual allegations, construe the pleadings in the light most favorable to the
8 plaintiff, and resolve all doubts in the plaintiff's favor.⁷ Pro se allegations are "held to less
9 stringent standards than formal pleadings drafted by lawyers."⁸ A complaint must contain more
10 than a "formulaic recitation of the elements of a cause of action"; it must contain factual
11 allegations sufficient to "raise a right to relief above the speculative level."⁹ "The pleading must
12 contain something more . . . than . . . a statement of facts that merely creates a suspicion [of] a
13 legally cognizable right of action."¹⁰ At a minimum, a plaintiff should state "enough facts to
14 state a claim to relief that is plausible on its face."¹¹ "A pro se litigant must be given leave to
15 amend [the] complaint, and some notice of its deficiencies, unless it is absolutely clear that the
16 deficiencies . . . could not be cured by amendment."¹²

17 ⁴ See *Lopez v. Smith*, 203 F.3d 1122, 1129 (9th Cir. 2000); see also *Calhoun v. Stahl*, 254 F.3d
18 845 (9th Cir. 2001) (per curiam).

19 ⁵ See *Watison v. Carter*, 668 F.3d 1108, 1112 (9th Cir. 2012) ("The standard for determining
20 whether a plaintiff has failed to state a claim upon which relief can be granted under §
21 1915(e)(2)(B)(ii) is the same as the Federal Rule of Civil Procedure 12(b)(6) standard for failure
22 to state a claim.").

23 ⁶ See *Chappel v. Lab. Corp. of Am.*, 232 F.3d 719, 723 (9th Cir. 2000).

24 ⁷ *Jenkins v. McKeithen*, 395 U.S. 411, 421 (1969).

25 ⁸ *Hughes v. Rowe*, 449 U.S. 5, 9 (1980) (internal quotation marks and citation omitted).

26 ⁹ *Bell Atlantic Corp. v. Twombly*, 550 U.S. 544, 555 (2007).

27 ¹⁰ *Id.* (quoting 5 C. Wright & A. Miller, *Federal Practice & Procedure* § 1216, at 235–36 (3d ed.
28 2004)).

¹¹ *Id.* at 570; see also *Ashcroft v. Iqbal*, 556 U.S. 662, 678 (2009)).

¹² *Cato v. United States*, 70 F.3d 1103, 1106 (9th Cir. 1995).

1 **C. Screening the complaint**

2 In a single count, Jiles sues Warden Williams, Warden Adams, Law Library Supervisor
3 Smith, and unidentified John and Jane Doe for events that allegedly occurred at the SDCC.¹³ He
4 seeks \$1 million in damages.¹⁴ Jiles’s story goes like this: On May 7, 2014, he was an inmate at
5 SDCC, and he filed a civil action.¹⁵ A month later, he was informed that a screening order had
6 been entered, but he never received a copy of the order.¹⁶ So, he claims, he didn’t know that his
7 case had been dismissed until a year later.¹⁷

8 Jiles asked the law-library supervisor to give him the incoming legal-mail log, but “she
9 gave [him] the run around”¹⁸—apparently never giving it to him. He claims that the mail log
10 would allow him to prove that he didn’t receive any mail from the courts, and he would be able
11 to get his case reopened.¹⁹ These allegations are best construed as an access-to-courts claim.

12 Prisoners have a constitutional right of access to the courts.²⁰ To establish a violation of
13 the right of access to the courts, a prisoner must establish that he or she has suffered an actual
14 injury—a jurisdictional requirement that flows from the standing doctrine and may not be
15 waived.²¹ An “actual injury” is “actual prejudice with respect to contemplated or existing
16 litigation, such as the inability to meet a filing deadline or to present a claim.”²² Delays in
17 providing legal materials or assistance that result in actual injury are “not of constitutional

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19 ¹³ ECF No. 1-1 at 2–3.

20 ¹⁴ *Id.* at 5.

21 ¹⁵ *Id.* at 3. That case was 2:14-cv-00712-MMD-NJK.

22 ¹⁶ *Id.*

23 ¹⁷ *Id.* at 4.

24 ¹⁸ *Id.*

25 ¹⁹ *Id.*

26 ²⁰ *See Lewis v. Casey*, 518 U.S. 343, 346 (1996).

27 ²¹ *Id.* at 349.

28 ²² *Id.* at 348.

1 significance” if “they are the product of prison regulations reasonably related to legitimate
2 penological interests.”²³ The right of access to the courts is limited to non-frivolous, direct
3 criminal appeals, habeas corpus proceedings, and § 1983 actions.²⁴

4 Jiles filed this case on June 30, 2017, alleging that, on some unidentified date, he was
5 denied access to the legal-mail log, which he wanted to look at to prove that he never received
6 any mail regarding the dismissal of a prior civil-rights action that he had filed in 2014. And,
7 Jiles attests, if he could prove that he never received that dismissal order, he would be able to
8 reopen his 2014 civil-rights case. So, Jiles’s alleged injury appears to be his inability to reopen
9 that once-dismissed case.

10 I have reviewed the screening order in that case. The court dismissed every single one of
11 Jiles’s claims with prejudice because amendment would have been futile.²⁵ Then Jiles moved for
12 reconsideration of that screening order, emphasizing that he never received the court’s screening
13 order.²⁶ District Judge Miranda Du denied Jiles’s motion because, although it was unfortunate
14 that he didn’t receive his mail, “that fact alone [was] not a valid reason for the Court to reopen a
15 case dismissed with prejudice.”²⁷ Jiles appealed Judge Du’s denial to the Ninth Circuit, but his
16 appeal was dismissed for lack of jurisdiction because it was untimely.²⁸ This procedural history
17 shows that Jiles is unable to litigate his 2014 claims for several reasons—not one of which was
18 that he was refused access to the legal-mail log. So, Jiles’s alleged injury is no injury at all—it is
19 an unwillingness to accept that his previous action was permanently and irreversibly dismissed.
20 Jiles failed to demonstrate a basis for reopening his case to Judge Du, and he has failed to
21 demonstrate one to me. Because the true facts underlying Jiles’s claim preclude him from

22 ²³ *Id.* at 362.

23 ²⁴ *Id.* at 353 n.3, 354–55.

24 ²⁵ *Jiles v. Williams*, 2:14-cv-00712–MMD–NJK, ECF No. 3.

25 ²⁶ ECF No. 7.

26 ²⁷ ECF No. 8.

27 ²⁸ ECF No. 12.

1 pleading and establishing injury, I find that Jiles has failed to state a colorable right-of-access
2 claim, and I dismiss this action with prejudice.

3 **Conclusion**

4 Accordingly, IT IS HEREBY ORDERED that Jiles's application to proceed *in forma*
5 *pauperis* [ECF No. 1] is **DENIED**, and his complaint [ECF No. 1-1] is **DISMISSED with**
6 **prejudice**. The **Clerk of Court** is directed to **ENTER JUDGMENT accordingly and CLOSE**
7 **THIS CASE**.

8 Dated: June 20, 2018

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10 U.S. District Judge Jennifer A. Dorsey
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